

**BEFORE THE STATE BOARD OF MEDIATION
STATE OF MISSOURI**

PROFESSIONAL FIREFIGHTERS OF)	
ST. LOUIS COUNTY, LOCAL 2665,)	
IAFF, AFL-CIO/CLC)	
)	
Petitioner,)	
)	
vs.)	Public Case No. 81-003
)	
RICHMOND HEIGHTS FIRE)	
DEPARTMENT,)	
)	
Respondent.)	

JURISDICTIONAL STATEMENT

This case appears before the State Board of Mediation upon the Professional Firefighters of St. Louis County, Local 2665, IAFF, AFL-CIO filing a petition for certification as public employee representative of all firefighters (excluding the fire chief) employed by the Richmond Heights Fire Department (Employer). The Employer contends that those employees with the rank of captain are supervisors and therefore should be excluded from the appropriate bargaining unit. Local 2665 asserts that the captains are not true supervisors and thus should be included in the unit. On May 20, 1981 a hearing was held in Richmond Heights at which representatives of Local 2665 and the Employer were present. The case was heard by State Board of Mediation Chairman Mary Gant, employer member Herb Shaw and employee member Robert Missey. The State Board of Mediation is authorized to hear and decide issues concerning appropriate bargaining unit determinations by virtue of Section 105.525, RSMo 1979.

At the hearing the parties were given full opportunity to present evidence. The Board, after a careful review of the evidence, sets forth the following findings of fact and conclusions of law:

FINDINGS OF FACT

The Richmond Heights Fire Department consists of the fire chief, four captains and fourteen firefighters. The fire chief is considered the department head and reports directly to the city councilman in charge of public safety. The fire department has one engine house at which the captain and firefighters reside while on duty. The firefighters are divided in to three crews which work in rotating 24-hour shifts. On each crew there are five firefighters and one captain. The captain resides at the engine house during his shift as do the other firefighters. The fire chief works from 8:30 to 5:00 five days a week and is on call during all other times.

The captains oversee the daily routine duties performed at the engine house. The lower ranking firefighters are responsible for the general cleaning and maintenance of the engine house, the pumper and other equipment. The record indicates that most of the duties are routine in nature and require little direct supervision by the captains, who only ensure that the duties are performed satisfactorily. The captains give no orders concerning the firefighters duties at the engine house. The fire chief merely posts a list of chores to be completed and the firefighters see that the work is performed. On occasion the captains will assist the firefighters with their cleaning duties. The fire chief is in charge of the men at the scene of a fire. If the fire chief is absent the captain makes decisions concerning strategy and tactics to be used in fighting the fire. Once the initial decisions are made, the captain will work along side the other firefighters in suppressing the fire. The captain also makes written reports concerning any call that is made during his shift. Any non-routine decisions made by

the captain, such as whether the crew should pump out a basement or get a cat out of a tree, must be cleared by the fire chief. If the fire chief was unavailable the councilman in charge of public safety is consulted.

The record indicates that the captains play no role in the hiring, firing or transfer of firefighters. There is no evidence that a lower ranking firefighter has ever been disciplined by a captain. Should a discipline problem arise, the fire chief would be contacted.

The captains receive \$100 per month more salary than the highest ranking fireman within the same pay step. When a lower ranking firefighter (private) works as a captain when the captain is absent, the private is compensated an extra \$26 per day.

CONCLUSIONS OF LAW

Local 2665 has petitioned to be certified as public employee representative of a bargaining unit comprised of captains and firefighters employed by the Richmond Heights Fire Department. Local 2665 argues that the captains and firefighters share a community of interest and should be included in the appropriate bargaining unit. The employer contends the captains are supervisory employees acting directly or indirectly in the interest of the employer, the City of Richmond Heights in relation to other employees.

The State Board of Mediation recognizes that certain employees possess sufficient supervisory status to warrant their exclusion from a bargaining unit of other employees. In St. Charles Professional Firefighters Local 1921 v. City of St. Charles, Public Case No. 79-024; and IBEW Local 1439 AFL-CIO v. City of Piedmont, Public Case No. 79-044, among other cases, this Board has articulated factors to consider in determining the supervisory status of employees. The effort is to determine whether a particular employee is a true "supervisor", whose duties involve acting directly or

indirectly in the interest of the employer in relation to other employees or whether the employee is merely a working foreman whose responsibilities would not justify exclusion from an appropriate bargaining unit. The factors to be considered in reaching this determination include (1) the authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees; (2) the authority to direct and assign the work force including a consideration of the amount of independent judgment or discretion involved in such decisions; (3) the number of employees supervised and the number of other persons exercising greater, similar or lesser authority with respect to the same employees; (4) the level of pay, including an evaluation of whether a person is paid for their skill or for their supervision of other employees; (5) whether a person primarily supervises an activity or primarily supervises other employees; (6) whether a person is a working supervisor or whether he or she spends a substantial majority of time overseeing others.

An application of the factors set out above to the facts of this case clearly indicates that the captains are not true supervisors. The captains play no role in the hiring, promotion, transfer or discharge of other firefighters. There is no evidence of a captain ever disciplining another employee. Although the captains do direct the firefighters at a fire scene, they exercise little, if any, independent judgment other than deciding what tactics to employ in suppressing a fire. Further, it is clear that the supervisory duties of a captain at a fire scene is more the supervision of an activity (i.e. fighting fires) rather than supervising other employees. That the captains work alongside the other employees during a fire, and thus are working supervisors, also supports the conclusion that the captains are not true supervisors. In short, the authority of the captains in no way can be considered supervisory. Any authority possessed by the captains is closer to that of a leadsmen rather than that of a true

supervisor. Accordingly, the captains of the Richmond Heights Fire Department shall be included in the appropriate bargaining unit.

DECISION

It is the decision of the State Board of Mediation that an appropriate unit of employees is as follows:

All employees of the Richmond Heights Fire Department
excluding the fire chief.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation among the employees in the unit found appropriate, as early as possible, but not later than sixty (60) days from the date below. The exact time and place will be set forth in the notice of election to be issued subsequently, subject to the Board's rules and regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because of vacation or illness. Ineligible to vote are those employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. Those eligible to vote shall vote whether or not they desire to be represented for the purpose of exclusive recognition by Petitioner, Local 2665.

It is hereby ordered that the Respondent shall submit to the Chairman of the State Board of Mediation, as well as to the Petitioner, within fourteen (14) days from the date of receipt of this decision, an alphabetical list of the names and addresses of employees in the unit determined above to be appropriate who were employed during the designated payroll period.

Signed this 19th day of August, 1981.

MISSOURI STATE BOARD OF MEDIATION

(SEAL)

/s/ Mary Gant
Mary Gant, Chairman

/s/ Herbert Shaw
Herbert Shaw, Employer Member

/s/ Robert Missey
Robert Missey, Employee Member

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STATE OF MISSOURI**

PROFESSIONAL FIRE FIGHTERS OF
ST. LOUIS COUNTY, LOCAL 2665

Petitioner,

vs.

RICHMOND HEIGHTS FIRE DEPARTMENT
RICHMOND HEIGHTS, MISSOURI

Respondent.

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Public Case No. 81-003

SUPPLEMENTAL DECISION

Based on testimony presented at a full Board Hearing on May 20, 1981, the Board issued a decision on August 19, 1981 ordering an election and found that an appropriate unit consisted of:

All employees of the Richmond Heights Fire Department
excluding the Fire Chief.

On September 14, 1981 the employer filed a motion to reopen the record to allow certain evidence to be heard that was allegedly unavailable at the time of the original hearing. Said motion was denied on October 9, 1981.

On November 9, 1981 the employer filed a petition for clarification of the bargaining unit, seeking that the appropriate bargaining unit to be as follows:

All employees of the Richmond Heights Fire Department
excluding Captains and Fire Chief.

In it's letter of December 3, 1981, Local 2665 agreed to the appropriateness of the unit sought in the employers petition for clarification. Because Local 2665 has agreed to the unit as proposed by the employer, there exists no issue to be determined by the Board. Accordingly, it is the decision of the State Board of Mediation that an appropriate unit is as follows:

All employees of the Richmond Heights Fire Department
excluding Captains and Fire Chief.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation among the employees in the unit found to be appropriate, as early as possible, but not later than sixty (60) days from the date below. The exact time and place will be set forth in the notice of election to be issued subsequently, subject to the Board's rules and regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because of vacation or illness. Ineligible to vote are those employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. Those eligible to vote shall vote whether or not they desire to be represented for the purpose of exclusive recognition by Petitioner, Local 2665.

It is hereby ordered that the Respondent shall submit to the Chairman of the State Board of Mediation, as well as to the Petitioner, within fourteen (14) days from the date of receipt of this decision, an alphabetical list of the names and addresses of employees in the unit determined above to be appropriate who were employed during the designated payroll period.

Signed this 16th day of December, 1981.

STATE BOARD OF MEDIATION

(S E A L)

/s/ Mary L. Gant

Mary L. Gant, Chairman